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15 behalf of other members of the public  
16 similarly situated

17 UNITED STATES DISTRICT COURT  
18  
19 NORTHERN DISTRICT OF CALIFORNIA  
20  
21 SAN FRANCISCO DIVISION

22 PAUL HANCOCK, ANALISA MOSKUS,  
23 BRANDON HAAG, ADRIANA AVILA,  
24 and NYLE DAVIS, individually, and on  
25 behalf of other members of the general  
26 public similarly situated,

27 Plaintiffs,

28 vs.

WELLS FARGO & COMPANY, WELLS  
FARGO BANK, N.A., and NATIONAL  
GENERAL INSURANCE COMPANY,

Defendants.

Case Number: 3:17-cv-04324-JD

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

**Jury Trial Demanded**

1 For their First Amended Complaint against Defendants Wells Fargo & Company  
2 and Wells Fargo Bank, N.A. (collectively “Wells Fargo”) and Defendant National  
3 General Insurance Company (“National General”) (collectively “Defendants”), Plaintiffs  
4 Paul Hancock, Analisa Moskus, Brandon Haag, Adriana Avila, and Nyle Davis  
5 (collectively “Plaintiffs”), individually, and on behalf of all other members of the public  
6 similarly situated, based on information and belief, allege as follows:

7 **NATURE OF THE ACTION**

8 1. On September 27, 2016, following the announcement of its \$185 million  
9 settlement with federal regulators concerning its fraudulent account scheme, Wells  
10 Fargo’s board of directors issued a press release stating, “we are committed to ensuring  
11 that *all* aspects of the Company’s business are conducted with integrity, transparency, and  
12 oversight.”<sup>1</sup> Now, nearly a year later, despite Wells Fargo’s purported “commitment,” it  
13 has once again been revealed that even under its new management, Wells Fargo’s  
14 fraudulent practices continue.

15 2. For more than a decade, Wells Fargo, together with auto insurance giant  
16 National General, engaged in a scheme to bilk millions of dollars from unsuspecting  
17 customers who were forced to pay for auto insurance they did not need or want. As early  
18 as 2008, Wells Fargo investigated the illegality of its practice of charging customers for  
19 “unnecessary and unauthorized collateral protection insurance,” but rather than take  
20 responsibility for its conduct, it denied that it did anything wrong and engaged in efforts  
21 to bury the truth.

22 3. Now, many years later, following the shocking revelation that more than  
23 800,000 auto loan customers paid for unnecessary auto insurance policies, pushing nearly  
24 250,000 of them into delinquency, and resulting in nearly 20,000 unlawful vehicle  
25 repossessions, Wells Fargo’s spokesperson Jennifer A. Temple publicly stated, “We take  
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27 <sup>1</sup> See [http://www.businesswire.com/news/home/20160908006266/en/Wells-Fargo-Issues-](http://www.businesswire.com/news/home/20160908006266/en/Wells-Fargo-Issues-Statement-Agreements-Related-Sales)  
28 [Statement-Agreements-Related-Sales](http://www.businesswire.com/news/home/20160908006266/en/Wells-Fargo-Issues-Statement-Agreements-Related-Sales) (emphasis added).

1 full responsibility for these errors and are deeply sorry for any harm we caused  
2 customers.” This lawsuit tests the truth of that statement and the depth of Wells Fargo’s  
3 commitment to its customers.

4 4. The auto loan customers impacted by Wells Fargo’s latest-revealed scheme  
5 sustained financial damages beyond the costs of the unlawful auto insurance. The  
6 financial harm included inflated premiums, delinquency charges, late fees, repossession  
7 costs, increased interest rates, overdraft fees, and damage to customers’ credit reports.

8 5. Although Wells Fargo recently told the public, “Wells Fargo is committed to  
9 putting our customers’ interests first 100 percent of the time,” and it committed to taking  
10 “[d]isciplinary actions, including terminations of managers and team members who acted  
11 counter to [the company’s] values,” the character of the Wells Fargo’s senior management  
12 was once again tested.<sup>2</sup> But, once again Wells Fargo failed, choosing concealment over  
13 transparency.

14 6. When confronted by the *New York Times*, Wells Fargo scrambled, literally  
15 issuing an eleventh-hour press release at 11:22 p.m. on July 27, 2017,<sup>3</sup> the night before the  
16 *New York Times* article was published, despite being aware of the scandal for at least a  
17 year. Only after Wells Fargo were forced to comment before the *New York Times* story  
18 hit the newsstands, Franklin R. Codel, the head of consumer lending at Wells Fargo,  
19 essentially admitted that the reign of rampant misconduct at the bank’s senior levels had  
20 not ended, stating, “We have a huge responsibility and fell short of our ideals for  
21 managing and providing oversight of the third-party vendor and our own operations.”

22 7. The auto insurance policies at issue in this case are commonly referred to as  
23 Collateral Protection Insurance (“CPI”). Unlike auto insurance policies commonly taken  
24 out by vehicle owners, which not only cover the insured vehicle, but also liability for

25 \_\_\_\_\_  
26 <sup>2</sup> See <http://www.businesswire.com/news/home/20160908006266/en/Wells-Fargo-Issues-Statement-Agreements-Related-Sales>

27 <sup>3</sup> See <http://www.businesswire.com/news/home/20170727006737/en/Wells-Fargo-Announces-Plan-Remediate-Customers-Auto>.  
28

1 collisions with other vehicles, property loss, and bodily injury, CPI *only* covers the cost of  
2 damage to the insured vehicle. Ordinarily, if proof of auto insurance was not received by  
3 Wells Fargo's CPI provider, in this case National General, notices were required to be  
4 sent to borrowers, to prompt them to obtain the required coverage. However, neither  
5 Wells Fargo nor National General, which underwrote the CPI policies, checked their  
6 internal database to see if Wells Fargo's auto loan customers had insurance coverage or, if  
7 they did, they simply ignored what they learned. Instead, Defendants imposed on  
8 customers redundant auto insurance coverage and then, frequently and without any notice,  
9 automatically deducted the cost of the CPI insurance from the customers' bank accounts,  
10 along with the regularly scheduled principal and interest payment for the auto loan.

11 8. Not only were the CPI policies unnecessary, they were more expensive than  
12 the coverage borrowers obtained on their own. Additionally, Wells Fargo received a  
13 kickback from National General in the form of shared commissions on each CPI policy,  
14 which provided the financial incentive to Defendants to unlawfully churn these unneeded  
15 and unwanted policies.

16 9. Compounding the shocking nature of the misconduct, Defendants' failure to  
17 properly disclose to their customers the unlawful CPI policies and/or the resulting  
18 automatic deductions from customers' bank accounts often put them in a financial  
19 tailspin.

20 10. These unlawful deductions resulted in account delinquencies, overdrawn  
21 payment accounts, increased interest rates, late fees, repossessed vehicles, and damage to  
22 borrowers' credit.

23 11. When borrowers, including Plaintiffs, protested and informed Defendants  
24 that they did, in fact, maintain the required insurance and that the CPI was unnecessary,  
25 Defendants refused to remove the unlawful charges. Borrowers were forced to pay the  
26 charges in order to maintain their accounts in good standing, avoid further late and  
27 overdraft fees and interest charges, and avoid repossession of their vehicles.

28 12. This is a proposed class action brought by Plaintiffs on behalf of all persons

1 who obtained an auto loan from Defendants and who were required to pay for a CPI  
2 policy. Plaintiffs challenge, as further described herein, Defendants' practice of secretly  
3 imposing such CPI on their customers and automatically deducting the cost of the such  
4 insurance from their bank accounts.

5 13. Defendants formed an unlawful enterprise. When customers financed cars  
6 with Wells Fargo, the buyers' information was automatically sent by Wells Fargo to  
7 National General, which was supposed to check a database shared between Wells Fargo  
8 and National General, to see if the borrower had insurance coverage. If not, the insurer  
9 was required to send out notice to the borrower in order to prompt them to obtain the  
10 required coverage. Despite these procedures, Defendants developed a uniform practice of  
11 automatically obtaining unnecessary and unlawful CPI policies and deducted the cost of  
12 the CPI policies (policy premiums and interest) automatically from their borrower' bank  
13 account.

14 14. Defendants failed to properly disclose or provide any notice of the  
15 deductions for the CPI insurance policies resulting in borrowers' missed payments, late  
16 fees, account overdraft fees, higher interest rates, and even repossessed vehicles and  
17 damaged credit.

### 18 **JURISDICTION AND VENUE**

19 15. Jurisdiction is proper in this Court under 28 U.S.C. § 1332(d)(2). The matter  
20 in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000  
21 and is a class action in which members of the class of plaintiffs are citizens of states  
22 different from Defendants. Further, greater than two-thirds of the members of the Class  
23 reside in states other than the states in which Defendants are a citizens.

24 16. This Court also has jurisdiction over this matter under 28 U.S.C. §§ 1331,  
25 1961, 1962 and 1964. This Court has personal jurisdiction over Defendants under 18  
26 U.S.C. §1965. In addition, under 28 U.S.C. § 1367, this Court may exercise supplemental  
27 jurisdiction over the state law claims because all of the claims are derived from a common  
28 nucleus of operative facts and are such that Plaintiffs ordinarily would expect to try them

1 in one judicial proceeding.

2 17. Venue lies within this judicial district under 28 U.S.C. § 1391(b)(1) because  
3 defendants Wells Fargo & Company and Wells Fargo Bank, N.A.'s principal place of  
4 business is in this District, and Defendants' contacts are sufficient to subject them to  
5 personal jurisdiction in this District, and therefore, Defendants reside in this District for  
6 purposes of venue, or under 28 U.S.C. § 1391(b)(2) because the acts giving rise to the  
7 claims at issue in this lawsuit occurred, among other places, in this District.

8 **Intradistrict Assignment**

9 18. Consistent with Northern District of California Civil Local Rule 3-5(b),  
10 assignment to the San Francisco or Oakland Division is appropriate under Civil Local  
11 Rules 3-2(c) and 3-2(d), because acts giving rise to the claims at issue in this lawsuit  
12 occurred, among other places, in this District, in the City of San Francisco.

13 **THE PARTIES**

14 19. Plaintiff Paul Hancock is an individual and a resident of Indianapolis,  
15 Indiana.

16 20. Plaintiff Analisa Moskus is an individual and resident of Long Beach,  
17 California.

18 21. Plaintiff Brandon Haag is an individual and resident of Trempealeau,  
19 Wisconsin.

20 22. Plaintiff Adriana Avila is an individual and resident of Houston, Texas.

21 23. Plaintiff Nyle Davis is an individual and resident of Neosho, Missouri.

22 24. Defendant Wells Fargo & Company is a corporation organized under the  
23 laws of Delaware and headquartered in San Francisco, California.

24 25. Defendant Wells Fargo Bank, N.A., is a subsidiary of Wells Fargo &  
25 Company, and is a national bank organized and existing as a national association under  
26 the National Bank Act, 12 U.S.C. §§ 21 *et seq.*, with its principal place of business in San  
27  
28

1 Francisco, California.<sup>4</sup>

2 26. Defendant National General Insurance Company is a national insurance  
3 agency incorporated in Missouri, with its principal place of business in Winston-Salem,  
4 North Carolina.

5 27. Whenever, in this Complaint, reference is made to any act, deed, or conduct  
6 of Defendants committed in connection with the enterprise, the allegation means that  
7 Defendants engaged in the act, deed, or conduct by or through one or more of their  
8 officers, directors, agents, employees or representatives, each of whom was actively  
9 engaged in the management, direction, control or transaction of the ordinary business and  
10 affairs of Defendants and the enterprise.

11 28. Plaintiffs are informed and believes, and based thereon, allege that, at all  
12 material times herein, each Wells Fargo defendant, Wells Fargo & Company and Wells  
13 Fargo Bank, N.A., was the agent, servant, or employee of, and acted within the purpose,  
14 scope, and course of said agency, service, or employment, and with the express or implied  
15 knowledge, permission, and consent of the other Wells Fargo defendant, and ratified and  
16 approved the acts of the other Wells Fargo defendant.

17 29. Wells Fargo & Company exercises specific and financial control over the  
18 operations of Wells Fargo Bank, N.A., and it dictates the policies and practices of Wells  
19 Fargo Bank, N.A. Wells Fargo & Company also exercises power and control over the  
20 specific activities at issue in this lawsuit, and it is the ultimate recipient of the ill-gotten  
21 gains described herein.

22  
23  
24  
25 <sup>4</sup> As other courts have observed, “Wells Fargo Bank, N.A . . . has regularly described its  
26 principal place of business as San Francisco, California.” *Mount v. Wells Fargo Bank,*  
27 *N.A.*, 2008 WL 5046286, at \*1 (C.D. Cal. Nov. 24, 2008) (citing *Wells Fargo Bank, N.A.*  
28 *v. Siegel*, 2007 WL 1686980 (N.D. Cal. June 8, 2007); and *Jojoba v. Wells Fargo Bank,*  
*N.A.*, 1973 WL 158166 (N.D. Cal. May 2, 1973)).



**FACTUAL BACKGROUND**

30. Defendants charged more than 800,000 auto loan borrowers for CPI auto insurance that they did not need or want, which Defendants failed to properly disclose. As a result, borrowers were unlawfully charged inflated CPI policy premiums and interest, late fees, and, in some cases, had their vehicles repossessed. Because of Defendants' unlawful acts, borrowers saw their bank accounts overdrawn, with unlawful fees assessed, and their credit scores damaged.

31. Borrowers financed their vehicles through Defendants. Wells Fargo provided the borrower's information to National General who was to then verify if the borrower had insurance coverage on the vehicle.

32. If the borrower failed to provide proof of insurance, Defendants were required to send the borrower a request that he or she provide proof of insurance. However, Defendants engaged in a practice of secretly and automatically imposing these CPI policies on borrowers who, in many instances, already had auto insurance. Thus, borrowers were paying premiums and interest on redundant CPI policies they did not need or request.

33. Defendants failed to properly disclose both the CPI policies and their resulting charges to borrowers.

34. Because the CPI insurance charges were not properly disclosed and unknown to borrowers, they often resulted in delinquencies in those cases where the borrower had insufficient funds to cover the cost of the CPI policy. In turn, Wells Fargo assessed late fees to borrowers' bank accounts and charges for insufficient funds. These actions by Defendants not surprisingly resulted in damage to borrowers' credit reports as Defendants reported these delinquencies to credit reporting agencies.

35. The CPI insurance policies coupled with Wells Fargo's internal rules about the order in which payments are applied to a customer's account further exacerbated the problem. When Wells Fargo received a payment on an auto loan account, they applied it in the following order: interest on the auto loan, interest on the CPI insurance, principal on



1 the auto loan, and then premium on the CPI policy.

2 36. This order of payments resulted in both an increased amount of overall  
3 interest paid by borrowers and frequently overdrawn bank accounts and auto loan  
4 delinquencies.

5 37. The extra, unexpected, and undisclosed additional expense pushed  
6 approximately 274,000 auto loan customers into delinquency resulting in almost 25,000  
7 wrongly repossessed vehicles.

8 38. Not only were the CPI insurance policies unnecessary, they were more  
9 expensive than the auto insurance policies customers had already obtained on their own.

10 39. Unbeknownst to borrowers, Wells Fargo obtained the policies through  
11 National General, who received a commission on the policies “sold” to borrowers, and  
12 Wells Fargo even shared in the commissions with National General, further boosting their  
13 profits.

## 14 **PLAINTIFF'S ALLEGATIONS**

### 15 **Plaintiff Paul Hancock**

16  
17 40. Plaintiff Paul Hancock (“Hancock”) purchased a vehicle from a dealership in  
18 Shelbyville, Indiana.

19 41. Plaintiff Hancock financed the purchase of his vehicle with a loan from  
20 Wells Fargo.

21 42. In May 2016, Wells Fargo placed a CPI policy on Plaintiff Hancock’s auto  
22 loan account and charged him \$598.00.

23 43. Plaintiff Hancock repeatedly contacted Wells Fargo to inform them that he  
24 had the required insurance through an auto insurance policy from Allstate.

25 44. Despite receiving this information, Wells Fargo did not credit Plaintiff  
26 Hancock’s account for the unlawful charge or otherwise refund the amount charged that  
27 they had collected. Indeed, Wells Fargo continued to charge Plaintiff Hancock for the  
28 CPI policy.

1           45. As a result of the increased CPI charges on his auto loan account, Plaintiff  
2 Hancock was charged a late fee immediately after the CPI policy was in place.

3                           **Plaintiff Analisa Moskus**

4           46. Plaintiff Analisa Moskus (“Moskus”) purchased a vehicle from a dealership  
5 in Lawndale, California.

6           47. Plaintiff Moskus financed the purchase of her vehicle with a loan from Wells  
7 Fargo.

8           48. In 2013, Plaintiff Moskus learned that Wells Fargo had placed a CPI policy  
9 on her auto loan account and added approximately \$800 in annual CPI premiums to her  
10 loan balance. Wells Fargo added the CPI policy to Plaintiff Moskus’s loan account  
11 despite receiving proof that she already had insurance coverage through AAA.

12           49. Nevertheless, Wells Fargo continued to charge Plaintiff Moskus for the CPI  
13 policy and deducted sums from her monthly loan payment to pay for the CPI premium.  
14 As a result of such deductions, Plaintiff Moskus was erroneously deemed to be delinquent  
15 under her loan agreement and Wells Fargo reported such purported delinquency to credit  
16 agencies.

17                           **Plaintiff Brandon Haag**

18           50. Plaintiff Brandon Haag (“Haag”) purchased a vehicle from a dealership in La  
19 Crosse, Wisconsin.

20           51. Plaintiff Haag financed the purchase of his vehicle with a loan from Wells  
21 Fargo.

22           52. In 2013, Plaintiff Haag learned that Wells Fargo had placed a CPI policy on  
23 his auto loan account and added approximately \$500 in CPI premiums to his loan balance.  
24 Wells Fargo added the CPI policy to Plaintiff Haag’s loan account despite receiving proof  
25 that he had insurance coverage through GEICO.

26           53. Nevertheless, Wells Fargo continued to charge Plaintiff Haag for the CPI  
27 policy and deducted sums from his monthly loan payment to pay for the CPI premium.  
28 As a result of such deductions, Plaintiff Haag was erroneously deemed to be delinquent

1 under his loan agreement and was charged late fees.

2 **Plaintiff Adriana Avila**

3 54. Plaintiff Adriana Avila (“Avila”) purchased a vehicle from a dealership in  
4 Houston, Texas.

5 55. Plaintiff Avila financed the purchase of her vehicle with a loan from Wells  
6 Fargo.

7 56. In 2014, Plaintiff Avila learned that Wells Fargo had placed a CPI policy on  
8 her auto loan account and added approximately \$500 in CPI premiums to his loan balance.  
9 Wells Fargo added the CPI policy to Plaintiff Avila’s loan account despite receiving proof  
10 that she had insurance coverage through GEICO.

11 57. Nevertheless, Wells Fargo continued to charge Plaintiff Avila for the CPI  
12 policy and deducted sums from her monthly loan payment to pay for the CPI premium.  
13 As a result of such deductions, Plaintiff Avila was erroneously deemed to be delinquent  
14 under her loan agreement and was charged late fees.

15 **Plaintiff Nyle Davis**

16 58. Plaintiff Nyle Davis (“Davis”) purchased a vehicle from a dealership in  
17 Neosho, Missouri.

18 59. Plaintiff Davis financed the purchase of his vehicle with a loan from Wells  
19 Fargo.

20 60. In 2016, Plaintiff Davis learned that Wells Fargo had placed a CPI policy on  
21 his auto loan account and added approximately \$500 in CPI premiums to his loan balance.  
22 Wells Fargo added the CPI policy to Plaintiff Davis’ loan account despite receiving proof  
23 that he had insurance coverage through Progressive and State Farm.

24 61. Nevertheless, Wells Fargo continued to charge Plaintiff Davis for the CPI  
25 policy and deducted sums from his monthly loan payment to pay for the CPI premium.  
26 As a result of such deductions, Plaintiff Davis was erroneously deemed to be delinquent  
27 under his loan agreement and was charged late fees.

1           62. In late 2016, Plaintiff Davis' vehicle was suddenly repossessed. The  
2 repossession company told Plaintiff Davis that he was purportedly late on his Well Fargo  
3 auto loan payments and the bank had ordered a repossession of his vehicle. Plaintiff  
4 Davis ultimately had to pay \$1,200 to recover his vehicle from the repossession company,  
5 which included \$1,035 in "redemption and reactivation" fees.

6                                   **STATUTE OF LIMITATIONS**

7           63. Any applicable statutes of limitations have been tolled by Defendants'  
8 knowing and active concealment, denial, and misleading actions, as alleged herein.  
9 Plaintiffs and members of the Class, as defined below, were kept ignorant of critical  
10 information required for the prosecution of their claims, without any fault or lack of  
11 diligence on their part. Plaintiffs and members of the Class could not reasonably have  
12 discovered the true nature of the Defendants' insurance scheme, including the kickbacks  
13 to Wells Fargo from National General.

14           64. Defendants are under a continuous duty to disclose to Plaintiffs and members  
15 of the classes the true character, quality, and nature of the charges they assess on  
16 borrowers' accounts. Defendants knowingly, affirmatively, and actively concealed the  
17 true character, quality, and nature of their assessment of the CPI auto insurance premiums  
18 against borrowers' accounts. Plaintiffs and members of the Class reasonably relied upon  
19 Defendants' knowing, affirmative, and active concealment. Based on the foregoing,  
20 Defendants are estopped from relying on any statutes of limitation as a defense in this  
21 action.

22           65. The causes of action alleged herein did or will only accrue upon discovery of  
23 the true nature of the charges assessed against borrowers' accounts, as a result of  
24 Defendants' fraudulent concealment of material facts. Plaintiffs and members of the  
25 Class did not discover, and could not have discovered, through the exercise of reasonable  
26 diligence, the true nature of the unlawful fees assessed against their accounts.

**CLASS ACTION ALLEGATIONS**

66. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action under Rule 23 of the Federal Rules of Civil Procedure.

67. The classes Plaintiffs seek to represent are defined as follows:

**Nationwide Class**

All residents of the United States of America who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

**California State Class**

All residents of the State of California who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

**Indiana State Class**

All residents of the State of Indiana who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

**Texas State Class**

All residents of the State of Texas who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

**Wisconsin State Class**

All residents of the State of Wisconsin who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

**Missouri State Class**

All residents of the State of Missouri who obtained an auto loan through Wells Fargo Bank, N.A. or its subsidiaries or divisions, and who were assessed charges for CPI auto insurance.

1           68. Plaintiffs reserve the right to amend the Class definitions if discovery and  
2 further investigation reveals that the Class should be expanded or otherwise modified.

3           69. Plaintiffs reserve the right to establish sub-classes as appropriate.

4           70. This action is brought and properly may be maintained as a class action  
5 under the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(1), (b)(2)  
6 or (b)(3), and satisfies the requirements thereof. As used herein, the term “Class  
7 Members” shall mean and refer to the members of the Class.

8           71. Numerosity: While the exact number of members of the Class is unknown to  
9 Plaintiffs at this time and can only be determined by appropriate discovery, membership  
10 in the Class is ascertainable based upon the records maintained by Defendants. At this  
11 time, Plaintiffs are informed and believes that the Class includes approximately 800,000  
12 members. Therefore, the Class is sufficiently numerous that joinder of all members of the  
13 Class in a single action is impracticable under Federal Rule of Civil Procedure Rule  
14 23(a)(1), and the resolution of their claims through the procedure of a class action will be  
15 of benefit to the parties and the Court.

16           72. Ascertainability: Names and addresses of members of the Class are available  
17 from Defendants’ records. Notice can be provided to the members of the Class through  
18 direct mailing, publication, or otherwise using techniques and a form of notice similar to  
19 those customarily used in consumer class actions arising under California state law and  
20 federal law.

21           73. Typicality: Plaintiffs’ claims are typical of the claims of the other members  
22 of the Class which he seeks to represent under Federal Rule of Civil Procedure 23(a)(3)  
23 because Plaintiffs and each member of the Class have been subjected to the same  
24 unlawful, deceptive, and improper practices and has been damaged in the same manner  
25 thereby.

26           74. Adequacy: Plaintiffs will fairly and adequately represent and protect the  
27 interests of the Class as required by Federal Rule of Civil Procedure Rule 23(a)(4).  
28 Plaintiffs are adequate representatives of the Class, because they have no interests which

are adverse to the interests of the members of the Class. Plaintiffs are committed to the vigorous prosecution of this action and, to that end, Plaintiffs have retained counsel who are competent and experienced in handling class action litigation on behalf of consumers.

75. Superiority: A class action is superior to all other available methods of the fair and efficient adjudication of the claims asserted in this action under Federal Rule of Civil Procedure 23(b)(3) because:

- (a) The expense and burden of individual litigation make it economically unfeasible for members of the Class to seek to redress their claims other than through the procedure of a class action.
- (b) If separate actions were brought by individual members of the Class, the resulting duplicity of lawsuits would cause members to seek to redress their claims other than through the procedure of a class action; and
- (c) Absent a class action, Defendants likely would retain the benefits of their wrongdoing, and there would be a failure of justice.

76. Common questions of law and fact exist as to the members of the Class, as required by Federal Rule of Civil Procedure 23(a)(2), and predominate over any questions which affect individual members of the Class within the meaning of Federal Rule of Civil Procedure 23(b)(3).

77. The common questions of fact include, but are not limited to, the following:

- (a) Whether Defendants engaged in a pattern or practice of racketeering, as alleged herein;
- (b) Whether Defendants engaged in unlawful, unfair, misleading, or deceptive business acts or practices in violation of California Business & Professions Code section 17200, *et seq.*;
- (c) Whether Defendants engaged in unfair, abuse, or deceptive acts, omissions, or practices in connection with a consumer transaction in violation of Indiana Code section 24-5-0.5, *et seq.*;



- (d) Whether Defendants engaged in false, misleading, or deceptive acts or practices in the conduct of any trade or commerce in violation of Texas Business and Commercial Code section 17.41, *et seq.*;
- (e) Whether Defendants made representations or statements of fact which were untrue, deceptive or misleading in violation of Wisconsin Statute section 100.18;
- (f) Whether Defendants made representations or statements of fact which were deceptive, fraudulent, and false in violation of Missouri Statute section 407.010, *et seq.*;
- (g) Whether Defendants' practice of charging CPI auto insurance premiums to borrowers, as alleged herein, is illegal;
- (h) Whether Defendants were members of, or participants in the conspiracy alleged herein;
- (i) Whether Plaintiffs and members of the class sustained damages, and if so, the appropriate measure of damages; and
- (j) Whether Plaintiffs and members of the Class are entitled to an award of reasonable attorneys' fees, pre-judgment interest, and costs of this suit.

78. In the alternative, this action is certifiable under the provisions of Federal Rule of Civil Procedure 23(b)(1) and/or 23(b)(2) because:

- (a) The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants;
- (b) The prosecution of separate actions by individual members of the Class would create a risk of adjudications as to them which would, as a practical matter, be dispositive of the interests of the other members of the Class not parties to the adjudications, or substantially impair or

1                   impede their ability to protect their interests; and

2           (c)   Defendants have acted or refused to act on grounds generally  
3                   applicable to the Class, thereby making appropriate final injunctive  
4                   relief or corresponding declaratory relief with respect to the Class as a  
5                   whole and necessitating that any such relief be extended to members of  
6                   the Class on a mandatory, class-wide basis.

7           79.   Plaintiffs are not aware of any difficulty which will be encountered in the  
8           management of this litigation which should preclude its maintenance as a class action

9                                   **FIRST CAUSE OF ACTION**

10                   **Violations of the Racketeer Influenced and Corrupt Organizations Act**  
11                                   **18 U.S.C. § 1962(c)**  
12                                   **(On Behalf of the Nationwide Class)**

13           80.   Plaintiffs incorporate by reference in this cause of action each and every  
14           allegation of the preceding paragraphs, with the same force and effect as though fully set  
15           forth herein.

16           81.   Plaintiffs bring this cause of action on behalf themselves and the members of  
17           the Nationwide Class.

18                                   **THE CPI ENTERPRISE**

19           82.   Defendants Wells Fargo & Company, Wells Fargo Bank, N.A., and National  
20           General Insurance Company are all persons within the meaning of Title 18 United States  
21           Code section 1961(3).

22           83.   At all relevant times, in violation of Title 18 United States Code section  
23           1962(c), Wells Fargo & Company, Wells Fargo Bank, N.A., and National General  
24           Insurance Company, including their directors, employees, and agents, conducted the  
25           affairs of an association-in-fact enterprise, as that term is defined in Title 18 United States  
26           Code section 1961(4) (the “CPI Enterprise”). The affairs of the CPI Enterprise affected  
27           interstate commerce through a pattern of racketeering activity.

28           84.   The CPI Enterprise is an ongoing, continuing group or unit of persons and

1 entities associated together for the common purpose of profiting from charging Wells  
2 Fargo's auto loan borrowers for unlawful, unnecessary, and/or undisclosed collateral  
3 protection insurance policies.

4 85. While the members of the CPI Enterprise participate in and are part of the  
5 enterprise, they also have an existence separate and distinct from the enterprise. The CPI  
6 Enterprise has a systematic linkage because there are contractual relationships,  
7 agreements, financial ties, and coordination of activities between Wells Fargo and  
8 National General.

9 86. As discussed above, operating the CPI Enterprise according to Wells Fargo's  
10 policies and procedures, Defendants control and direct the affairs of the CPI Enterprise  
11 and use the other members of the CPI Enterprise as instrumentalities to carry out  
12 Defendants' fraudulent scheme.

13 87. These policies and procedures established by Wells Fargo include sending  
14 National General a list of auto loan customers, having National General underwrite a CPI  
15 policy in the name of such customer, issuing documents that fail to properly disclose the  
16 CPI insurance, providing statements that fail to properly disclose the CPI auto insurance  
17 premiums, and arranging the order of charges to borrower's accounts to cause borrowers  
18 to become delinquent.

### 19 THE PREDICATE ACTS

20 88. Defendants' systematic schemes to unlawfully charge premiums, interest,  
21 and other charges for unnecessary CPI policies on the accounts of borrowers who have  
22 auto loans from Wells Fargo, as described above, was facilitated by the use of the United  
23 States Mail and wire. Defendants' schemes constitute "racketeering activity" within the  
24 meaning of Title 18 United States Code section 1961(1), as acts of mail and wire fraud,  
25 under Title 18 United States Code sections 1341 and 1343.

26 89. In violation of Title 18 United States Code sections 1341 and 1343,  
27 Defendants utilized the mail and wire in furtherance of their scheme to defraud its auto  
28 loan customers by obtaining money from borrowers using false or fraudulent pretenses.

1           90. Through the mail and wire, the CPI Enterprise provided insurance policies,  
2           lending documents, auto loan statements, payoff demands, or proofs of claims to  
3           borrowers, demanding that borrowers pay CPI auto insurance premiums and related  
4           charges. Defendants also accepted payments and engaged in other correspondence in  
5           furtherance of their scheme through the mail and wire.

6           91. The CPI auto insurance policies were unlawful and thus Defendants'  
7           representations that the premiums and related charged were owed were fraudulent and in  
8           communications to borrowers, Defendants made false statements using the Internet,  
9           telephone, facsimile, United States mail, and other interstate commercial carriers.

10          92. Defendants' fraudulent statements were material to Plaintiffs and the  
11          members of the Class. Defendants represented that the CPI auto insurance charges were  
12          lawful and necessary and required for Plaintiffs and members of the class to maintain their  
13          loan accounts in good standing and avoid further late fees and repossession of their  
14          vehicles.

15          93. Each of these acts constituted an act of mail fraud for purposes of Title 18  
16          United States Code section 1341.

17          94. Additionally, using the Internet, telephone, and facsimile transmissions to  
18          fraudulently communicate false information about the premiums and fees to borrowers, to  
19          pursue and achieve their fraudulent scheme, Defendants engaged in repeated acts of wire  
20          fraud in violation of Title 18 United States Code section 1343.

21          95. In an effort to pursue their fraudulent scheme, Defendants knowingly  
22          fraudulently represented that the premiums and charges were owed.

23          96. The predicate acts specified above constitute a "pattern of racketeering  
24          activity" within the meaning of Title 18 United States Code section 1961(5) in which  
25          Defendants have engaged under Title 18 United States Code section 1962(c).

26          97. All of the predicate acts of racketeering activity described herein are part of  
27          the nexus of the affairs and functions of the CPI Enterprise racketeering enterprise. The  
28          racketeering acts committed by the CPI Enterprise employed a similar method, were

related, with a similar purpose, and they involved similar participants, with a similar impact on the members of the Class. Because this case is brought on behalf of a class of similarly situated borrowers and there are numerous acts of mail and wire fraud that were used to carry out the scheme, it would be impracticable for Plaintiffs to plead all of the details of the scheme with particularity. Plaintiffs cannot plead the precise dates of all of Defendants' uses of the mail and wire because this information cannot be alleged without access to Defendants' records.

98. The pattern of racketeering activity is currently ongoing and open-ended, and threatens to continue indefinitely unless this Court enjoins the racketeering activity.

99. Numerous schemes have been completed involving repeated unlawful conduct that by its nature, projects into the future with a threat of repetition.

100. As a direct and proximate result of these violations of Title 18 United States Code sections 1962(c) and (d), Plaintiff and members of the class have suffered substantial damages. Defendants are liable to Plaintiffs and members of the Class for treble damages, together with all costs of this action, plus reasonable attorney's fees, as provided under Title 18 United States Code section 1964(c).

## **SECOND CAUSE OF ACTION**

### **Violation of the Racketeer Influenced and Corrupt Organizations Act, Conspiracy to Violate Title 18 United States Code section 1962(c) 18 U.S.C. § 1962(d) (On Behalf of the Nationwide Class)**

101. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

102. Plaintiffs bring this cause of action on behalf of themselves and the members of the Nationwide Class.

103. As set forth above, in violation of Title 18 United States Code section 1962(d), Wells Fargo and National General conspired to violate the provisions of Title 18 United States Code section 1962(c).

104. As set forth above, Defendants, having directed and controlled the affairs of the CPI Enterprise, were aware of the nature and scope of the enterprise's unlawful scheme, and they agreed to participate in it.

105. As a direct and proximate result, Plaintiffs and the members of the Class have been injured in their business or property by the predicate acts which make up Defendants' patterns of racketeering activity in that unlawful CPI insurance premiums were assessed on their auto loan accounts.

### **THIRD CAUSE OF ACTION**

#### **Violation of Unfair Business Practices Act California Business & Professions Code §§ 17200 *et seq.* (On Behalf of the California State Class)**

106. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

107. Plaintiff Moskus bring this cause of action on behalf of herself and the members of the California State Class.

108. California Business and Professions Code section 17200 prohibits "any unlawful, unfair or fraudulent business act or practice." For the reasons described above, Defendants have engaged in unfair, or fraudulent business acts or practices in violation of California Business and Professions Code sections 17200 *et seq.*

109. Defendants' charging Plaintiff and class members for unnecessary and unrequested CPI auto insurance policies, fraudulent statements regarding the charges, and omissions of material facts, as set forth herein, all constitute unlawful practices because they violate, *inter alia*, Title 18 United States Code sections 1341, 1343, and 1962; California Civil Code sections 1572, 1573, 1709, 1710, and 1711; and the common law.

110. Defendants' charging Plaintiff and class members for unnecessary and unrequested CPI policies, fraudulent statements regarding the charges, and omissions of material facts, as set forth herein, also constitute "unfair" business acts and practices

1 within the meaning of California Business and Professions Code sections 17200 *et seq.*, in  
2 that Defendants' conduct was injurious to consumers, offended public policy, and was  
3 unethical and unscrupulous. Defendants' violation of California's consumer protection  
4 and unfair competition laws in California resulted in harm to consumers.

5 111. There were reasonable alternatives available to Defendants to further  
6 Defendants' legitimate business interests, other than the conduct described herein.

7 112. California Business and Professions Code section 17200 also prohibits any  
8 "fraudulent business act or practice." Defendants' charging Plaintiff and class members  
9 for unnecessary and unrequested CPI auto insurance policies, fraudulent statements  
10 regarding the charges, and omissions of material facts, as set forth above, was false,  
11 misleading, or likely to deceive the public within the meaning of California Business and  
12 Professions Code section 17200. Defendants' conduct and statements were made with  
13 knowledge of their effect, and was done to induce Plaintiff and members of the Class to  
14 pay the CPI auto insurance premiums.

15 113. Plaintiff relied on the reasonable expectation that Defendants comply with  
16 the law. Plaintiff and members of the class relied on Defendants' representations that the  
17 charges were lawful and necessary and required to maintain their loans in good standing  
18 and avoid repossession of their vehicles.

19 114. Plaintiff and members of the Class have been injured in fact and suffered a  
20 loss of money or property as a result of Defendants' fraudulent, unlawful, and unfair  
21 business practices.

22 115. Defendants have thus engaged in unlawful, unfair, and fraudulent business  
23 acts entitling Plaintiff and members of the Class to judgment and equitable relief against  
24 Defendants, as set forth in the Prayer for Relief.

25 116. Additionally, under Business and Professions Code section 17203, Plaintiff  
26 and members of the Class seek an order requiring Defendants to immediately cease such  
27 acts of unlawful, unfair, and fraudulent business practices, and requiring Defendants to  
28 correct their actions.



**FOURTH CAUSE OF ACTION**

**Violations of the Indiana Deceptive Consumer Sales Act**

**Ind. Code 24-5-05, *et seq.***

**(On Behalf of the Indiana State Class)**

117. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

118. Plaintiff Hancock brings this cause of action on behalf of himself and the Indiana State Class against Defendants.

119. Plaintiff Hancock is a person, Defendants are suppliers, and Plaintiff Hancock's auto loan is a consumer transaction within the meaning of Ind. Code 24-5-0.5-3.

120. The Indiana Deceptive Consumer Sales Act prohibits unfair, abusive, or deceptive acts, omissions, and practices in connection with a consumer transaction.

121. Defendants' conduct in charging Indiana State Class Members for the unnecessary, overpriced CPI auto insurance policies constitutes an unfair, abusive, and deceptive act and practice.

122. In the course of their business, Defendants concealed and suppressed material facts concerning the CPI auto insurance. Defendants failed to properly disclose the policies and failed to disclose the policies were unnecessary and unlawful.

123. Plaintiff Hancock and class members relied on Defendants' fraudulent representations that the CPI auto insurance charges were lawful and necessary and required to maintain their accounts in good standing and avoid repossession of their vehicles.

124. Plaintiff Hancock and class members were damaged by paying for unlawful premiums and other charges related to the CPI auto insurance policies.

125. Defendants' conduct is an incurable deceptive act because it was done as part of a scheme with intent to defraud and mislead.

**FIFTH CAUSE OF ACTION**

**Violations of the Texas Deceptive Trade Practices-Consumer Protection Act**

**Tex. Bus. & Com. Code §§ 17.41, *et seq.***

**(On Behalf of the Texas State Class)**

126. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

127. Plaintiff Avila brings this cause of action on behalf of herself and the Texas State Class against Defendants.

128. The Texas Deceptive Trade Practices-Consumer Protection Act prohibits false, misleading, or deceptive acts or practices in the conduct of any trade or commerce.

129. Defendants' conduct in charging Texas State Class Members for the unnecessary, overpriced CPI auto insurance policies constitutes a false, misleading, and deceptive act and practice.

130. In the course of their business, Defendants concealed and suppressed material facts concerning the CPI auto insurance. Defendants failed to properly disclose the policies and failed to disclose the policies were unnecessary and unlawful.

131. Plaintiff Avila and class members relied on Defendants' fraudulent representations that the CPI auto insurance charges were lawful and necessary and required to maintain their accounts in good standing and avoid repossession of their vehicles.

132. Plaintiff Avila and class members were damaged by paying for unlawful premiums and other charges related to the CPI auto insurance policies.

133. Defendants conduct was intentional.

**SIXTH CAUSE OF ACTION**

**Violations of the Wisconsin Deceptive Trade Practices Act**

**Wis. Stat. 100.18**

**(On Behalf of the Wisconsin State Class)**

134. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

135. Plaintiff Haag brings this cause of action on behalf of himself and the Wisconsin State Class against Defendants.

136. The Wisconsin Deceptive Trade Practices Act prohibits untrue, deceptive, or misleading representations in the sale of goods and services to the public.

137. Defendants' representations to the Wisconsin State Class regarding the unnecessary, overpriced CPI auto insurance policies were untrue, deceptive, and misleading.

138. Plaintiff Haag and class members relied on Defendants' untrue, deceptive, and misleading representations that the CPI auto insurance charges were lawful and necessary and required to maintain their accounts in good standing and avoid repossession of their vehicles.

139. Plaintiff Haag and class members were damaged by paying for unlawful premiums and other charges related to the CPI auto insurance policies.

**SEVENTH CAUSE OF ACTION**

**Violations of the Missouri Merchandising Practices Act**

**Wis. Stat. 100.18**

**(On Behalf of the Missouri State Class)**

140. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

141. Plaintiff Davis brings this cause of action on behalf of himself and the

1 Missouri State Class against Defendants.

2 142. The Wisconsin Deceptive Trade Practices Act prohibits deception, fraud,  
3 false pretense, false promise, misrepresentation, unfair practice or the concealment,  
4 suppression, or omission of any material fact in connection with the sale or advertisement  
5 of any good or service in trade or commerce.

6 143. Defendants' representations to the Missouri State Class regarding the  
7 unnecessary, overpriced CPI auto insurance policies were deceptive, fraudulent, and false,  
8 and the force-placing of the CPI policies constitutes an unfair practice.

9 144. Plaintiff Davis and class members relied on deceptive, fraudulent, and false  
10 representations that the CPI auto insurance charges were lawful and necessary and  
11 required to maintain their accounts in good standing and avoid repossession of their  
12 vehicles.

13 145. Plaintiff Davis and class members were damaged by paying for unlawful  
14 premiums and other charges related to the CPI auto insurance policies.

### 15 **EIGHTH CAUSE OF ACTION**

#### 16 **Unjust Enrichment**

17 146. Plaintiffs incorporate by reference in this cause of action each and every  
18 allegation of the preceding paragraphs, with the same force and effect as though fully set  
19 forth herein.

20 147. Plaintiffs brings this cause of action on behalf of themselves and the  
21 members of each of the Classes.

22 148. By their wrongful acts and omissions of material facts, Defendants were  
23 unjustly enriched at the expense of Plaintiffs and members of the Class.

24 149. Thus, Plaintiffs and members of the Class were unjustly deprived.

25 150. It would be inequitable and unconscionable for Defendants to retain the  
26 profit, benefit and other compensation they obtained from their fraudulent, deceptive, and  
27 misleading conduct alleged herein.

28 151. Plaintiffs and members of the Class seek restitution from Defendants, and

1 seek an order of this Court disgorging all profits, benefits, and other compensation  
2 obtained by Defendants from their wrongful conduct.

### 3 **NINTH CAUSE OF ACTION**

#### 4 **Fraud**

5 152. Plaintiffs incorporates by reference in this cause of action each and every  
6 allegation of the preceding paragraphs, with the same force and effect as though fully set  
7 forth herein.

8 153. Plaintiffs bring this cause of action on behalf of themselves and the members  
9 of each of the Classes.

10 154. Defendants concealed and suppressed material facts, namely, that the CPI  
11 auto insurance policies were unlawful and unnecessary. In truth and in fact, borrowers  
12 were not obligated to pay for the CPI auto insurance policies or the inflated premiums,  
13 late fees and other expenses that resulted. Contrary to Defendants' communications,  
14 Defendants were not legally authorized to assess and collect these charges and fees.

15 155. Plaintiffs and class members relied on Defendants' representations that the  
16 CPI auto insurance charges were lawful and necessary and required to maintain their  
17 accounts in good standing and avoid repossession of their vehicles.

18 156. Defendants knew their unnecessary CPI auto insurance policies were  
19 unlawful and their concealment and suppression of materials facts relating to those polices  
20 was false, misleading, and unlawful.

21 157. As a result of Defendants' fraudulent conduct, Plaintiffs and members of the  
22 Class have been injured in fact and suffered a loss of money or property. Plaintiffs and  
23 members of the Class paid for the CPI auto insurance policies and other fees as a result of  
24 Defendants' conduct.

25 158. Defendants omitted and concealed material facts, as discussed above, with  
26 knowledge of the effect of concealing of these material facts. Defendants knew that by  
27 misleading consumers, they would generate higher profits.

28 159. Plaintiffs and members of the Class justifiably relied upon Defendants'

1 knowing, affirmative, and active concealment. By concealing material information about  
 2 their scheme to assess undisclosed insurance premium fees on borrowers' accounts,  
 3 Defendants intended to induce Plaintiffs and members of the Class into believing that they  
 4 owed Defendants money that Defendants were not actually entitled. Moreover, in many  
 5 instances, the amount necessary to cover the premium and interest for the policy was  
 6 automatically deducted from the borrowers' bank account without the borrowers'  
 7 knowledge.

8 160. Defendants acted with malice, oppression, or fraud.

9 161. As a direct and proximate result of Defendants' conduct and omissions and  
 10 active concealment of material facts, Plaintiffs and each member of the Class has been  
 11 damaged in an amount according to proof at trial.

### 12 **PRAYER FOR RELIEF**

13 Plaintiffs, and on behalf of themselves and all others similarly situated, request the  
 14 Court to enter judgment against Defendants, as follows:

15 1. Certifying the Classes, as requested herein, certifying Plaintiffs as the  
 16 representatives of the Classes, and appointing Plaintiffs' counsel as counsel for the  
 17 Classes;

18 2. Ordering that Defendants are financially responsible for notifying all  
 19 members of the Classes of the alleged omissions discussed herein;

20 3. Awarding Plaintiffs and the members of the Classes compensatory damages  
 21 in an amount according to proof at trial;

22 4. Awarding restitution and disgorgement of Defendants' revenues and/or  
 23 profits to Plaintiffs and members of the Classes;

24 5. Awarding Plaintiffs and the members of the Classes treble damages in an  
 25 amount according to proof at trial;

26 6. Awarding declaratory and injunctive relief as permitted by law or equity,  
 27 including: enjoining Defendants from continuing the unlawful practices as set forth  
 28 herein, and directing Defendants to identify, with Court supervision, victims of its conduct

1 and pay them restitution and disgorgement of all monies acquired by Defendants by  
2 means of any act or practice declared by this Court to be wrongful;

3 7. Ordering Defendants to engage in corrective advertising;

4 8. Awarding interest on the monies wrongfully obtained from the date of  
5 collection through the date of entry of judgment in this action;

6 9. Awarding attorneys' fees, expenses, and recoverable costs reasonably  
7 incurred in connection with the commencement and prosecution of this action; and

8 10. For such other and further relief as the Court deems just and proper.

9  
10 Dated: August 15, 2017

BARON & BUDD, P.C.

11  
12 By: /s/ Roland Tellis  
Roland Tellis

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27  
28 Attorneys for Plaintiffs Paul Hancock,  
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behalf of other members of the public  
similarly situated



**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

Dated: August 15, 2017

BARON & BUDD, P.C.

By: /s/ Roland Tellis  
Roland Tellis

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